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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q63420

Rudy HOEBEKE, et al.

Appln. No.: 09/809,290

Group Art Unit: 2667

Confirmation No.: 4960

Examiner: Kwang BIn YAO

Filed: March 16, 2001

For: PROCESS FOR RECEIVING MULTICAST DATA, AS WELL AS A COMMUNICATIONS NETWORK, CUSTOMER PREMISES NETWORK TERMINATION, INTERNET ACCESS SERVER AND PROGRAM MODULES FOR EXECUTING AN ADDITIONAL PROTOCOL FOR SAID PROCESS

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement, dated January 31, 2005, Applicant elects Group III, claims 6, 8 and 10 for examination. This election requirement is respectfully traversed for the following reasons.

Claim 6 is directed to an Internet access server having means for providing multicast data specific to one or more subscribers on a further channel MVCC, and means for executing an additional protocol in order to inform the subscriber network terminal CPNT which subscribers should receive the data. Claim 7 is directed to a customer premises network termination having means for executing an additional protocol to inform the subscribers who are to receive the data received over the MVCC, and means for inserting that data into the tunnel connections of those subscribers. It would not be possible to use the server of claim 6 to put the multicast data into the channel MVCC without having the customer premises equipment at the other end to inform the subscribers and insert the data into their respective tunnel connections. The only additional utility identified by the examiner for the server of claim 6 is "executing an additional protocol in a network element NAS," but the additional protocol is to inform the terminals at the other end who should receive the data. The examiner has not explained how the subscriber terminal equipment of claim 7 could work without this information. Similarly, the only additional utility identified by the examiner for the server of customer equipment of claim 7 is "executing an additional protocol in a

network element CPNT,” but the additional protocol is to inform the equipment CPNT which subscribers are to receive the data on the channel MVCC. The examiner has not explained how the server of claim 6 could operate without such a protocol being performed at the received end. Applicants see no reasonable separate utility for claims 6 and 7 (Groups III and IV).

Claim 1 is directed to a method for receiving multicast data from a communications network, with the method involving the execution of an additional protocol between the network element NAS remote from the subscribers and the network element local to the subscribers, so that identical multicast data of several parallel tunnel connections are sent out only once between the remote and local network elements. If this is to happen, there must be something at the transmitting end for putting this data on a channel that is shared (at least for purposes of this data) by the terminals, there must also be some information provided from the transmit end as to which of the terminals are to receive the data. There will also have to be something at the receive end for receiving the once-transmitted data as well as the information advising of the terminals to which it is directed, and then providing the data to the connections of those specific terminals. The examiner has not provided any explanation as to how the method of claim 1 could be practiced without a multicast server such as in claim 6 or without customer equipment such as in claim 7. The “additional protocol” in claim 1 is to send multicast data only once, but that inherently requires that something at the receive end receive it and distribute it to the plural subscribers for which it is intended (claim 7), and this cannot be done without something to put the data onto a single channel, and provide information that the receiving equipment can use to determine to whom the data should be distributed (claim 6). Applicants see no reasonable separate utility for claims 1 and 6 or claims 1 and 7.

Finally, claim 2 is directed to a communications network which allows for multicast data intended for plural subscribers to be sent out only once between the network element remote from the subscriber and the network element local to the subscriber, with the network element local to the subscribers including means for determining that multicast data has been sent via a multicast data channel MVCC and for distributing the multicast data to the intended plural subscribers. The examiner has not explained how the method of claim 1 could be used except in a network as recited in claim 2, nor has the examiner explained how the network of claim 2 could be used without practicing the method of claim 1.

The separate utility becomes even more tenuous in the context of some dependent claims.

It is also to be noted that the examiner’s characterization of the various groups at page 2 of the Office action is inaccurate. Group III is not directed to a method but to a server, and Group IV is not directed to a method but to customer premises equipment. In any event, it is also noted that for all four

groups, the examiner has identified the same classification, i.e., Class 370, subclass 432. While this is by no means controlling, it is further evidence of the lack of distinctness required for restriction to be proper.

It is respectfully submitted that restriction between the various groups is not proper, and it is requested that all claims be examined on the merits at this time.

Applicant reserves the right to file a Divisional Application directed to non-elected claims 1-5, 7, 9, and 11.

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CUSTOMER NUMBER

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